



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

December 1, 1998

Ms. Judith A. Hunter
Paralegal
City Attorney's Office
P.O. Box 409
Georgetown, Texas 78627-0409

OR98-2909

Dear Ms. Hunter:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act (the "act"), chapter 552 of the Government Code. Your request was assigned ID# 119837.

The City of Georgetown (the "city") received a request for a specified police report, referenced by number 98-13593. In response to the request, you submit to this office for review a copy of the records at issue. Based on your letter, it is our understanding that the city has provided the requestor with certain information from the responsive reports.¹ You contend that the other information responsive to the request is excepted from disclosure pursuant to section 552.108 of the Government Code. We have considered the exception you claim and have reviewed the documents at issue.

We note at the outset that included among the submitted information, you have provided a report of the results of an intoxilyzer test. Section 724.018 of the Transportation Code provides that "a person who has given a specimen at the request of a peace officer" may obtain on request "full information concerning the analysis of the specimen." Where a statute provides an individual with a special right of access to information, that information may not be withheld from that individual pursuant to the law-enforcement exception. *See* Open Records Decision Nos. 613 (1993), 623 (1994). Since the requestor here is the subject of the test report, you must release the test report to him under section 724.018 of the Transportation Code.

¹Certain basic information normally found on the front page of an offense report, including a detailed description of the offense, is generally considered public. *See* Gov't Code § 552.108(c); *see generally* *Houston Chronicle Publ'g Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.--Houston [14th Dist.] 1975), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976); Open Records Decision No. 127 (1976).

We next consider your claim under section 552.108, the "law enforcement" exception, of the Government Code. Section 552.108(a)(1) provides an exception from disclosure for information that is held by a law enforcement agency or prosecutor and that deals with the detection, investigation, or prosecution of crime, when release of such information would interfere with the detection, investigation, or prosecution of crime. You explain that "the investigation into this accident is pending and that charges of driving while intoxicated are being processed by the Williamson County Attorney's Office." Since there is an active investigation, we agree that you have shown that release of this information would interfere with the prosecution of crime. *Houston Chronicle Publ'g Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.--Houston [14th dist.] 1975), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976) (court delineates law enforcement interests that are present in active cases); see Open Records Decision No. 216 (1978) at 3 (release of information during pending criminal case would interfere with prosecution of crime and law enforcement interests).

As you are aware, the city must provide the requestor with the basic front page offense report information in the submitted documents, including a detailed description of the offense. Front page offense report information is the public, basic information required to be disclosed. See generally *Houston Chronicle*, 536 S.W.2d at 559; Open Records Decision No. 127 (1976). Therefore, we conclude that, except for basic front page information, the requested records may be withheld under section 552.108(a)(2) of the Government Code.²

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied on as a previous determination regarding any other records. If you have any questions regarding this ruling, please contact our office.

Yours very truly,

A handwritten signature in cursive script that reads "Sam Haddad". The signature is written in dark ink and is positioned above the printed name.

Sam Haddad
Assistant Attorney General
Open Records Division

SH/mjc

Ref.: ID# 119837

²We note that the city has discretion to release all or part of the information at issue that is not otherwise made confidential by law. Gov't Code § 552.007.

Enclosures: Submitted documents

cc: Mr. Cody Campbell
1801 Farnswood
Round Rock, Texas 78664
(w/o enclosures)